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# Duquesne Law Review

Volume 42, Number 4, Summer 2004

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## Articles

### CIVIL LIBERTY AND THE RESPONSE TO TERRORISM

*Paul Rosenzweig* ..... 663

This article addresses many of the conceptions and misconceptions attending the public debate on the threat to civil liberty from the expansion of executive power. Section I outlines some basic principles that should guide the analysis of the Patriot Act, and related expansion of government power. The author summarizes some of the relevant history and attempts to identify relevant similarities and differences between past experiences and the contemporary, post-September 11th situation. The author then offers some basic principles for use in assessing the potential threat to civil liberties posed by various legal and technological changes. Section II conducts a detailed analysis of some of these changes, acknowledging at several points that ambiguity and the potential for abuse exists, at others that real problems may arise, and arguing, at others, that criticisms of the Patriot Act have swayed away from reality and into a sort of mythology.

### IRS, INC.—THE IRS OVERSIGHT BOARD—EFFECTIVE REFORM OR JUST POLITICS? SOME EARLY THOUGHTS FROM A CORPORATE LAW PERSPECTIVE

*Eric A. Lustig* ..... 725

This article examines the new IRS Oversight Board as a governance device, particularly in light of corporate governance in the private sector. First, the author traces the history of the IRS, exploring

past organizational and governance problems. The author then focuses on the reforms enacted in the 1998 IRS Restructuring and Reform Act, paying particular attention to the structural changes and establishment of the IRS Oversight Board. The author then engages in a critical review of the IRS Oversight Board, reviewing the Board from a corporate perspective by examining the role of directors in governing private corporations. The author's analysis tests the corporate analogy and considers recent criticisms of the corporate board model of governance in light of the current corporate scandals. The article ultimately concludes that, to the extent the creation of the IRS Oversight Board as a governance mechanism rests on a corporate analogy, the Board does not approach the reform suggested by the political rhetoric and does not significantly improve governance shortcomings.

## Commemoration

FOUR DECADES OF THE *DUQUESNE LAW REVIEW* VOLUMES 1-40 (1963-2002) A HISTORY

*Joel Fishman, Ph.D.* ..... 775

## Comments

VIATICAL SETTLEMENTS: THE NEED FOR REGULATION TO PRESERVE THE BENEFITS WHILE PROTECTING THE ILL AND THE ELDERLY FROM FRAUD

*Anna D. Halechko* ..... 803

PENNSYLVANIA'S CAPITAL STATUTE: DOES THE INTRODUCTION OF VICTIM IMPACT EVIDENCE—INTO THE EVALUATION OF MITIGATING AND AGGRAVATING CIRCUMSTANCES—AT THE SENTENCING HEARING OF A MURDER TRIAL INTRODUCE UNJUST PREJUDICE INTO THE IMPOSITION OF THE DEATH PENALTY?

*Jason Elliot Nard* ..... 825

RESCUING THE COMMERCE CLAUSE: WHY THE FEDERAL GOVERNMENT MAY NOT CONSTITUTIONALLY REGULATE THE POSSESSION OF FIREARMS <i>Samuel J. Toney IV</i> .....	865
--	-----

## Recent Decisions

DEFENDANTS FACING PUNITIVE DAMAGES AWARDS ARE ENTITLED TO PROTECTION UNDER THE DUE PROCESS CLAUSE: <i>STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY V. CAMPBELL</i> <i>Robert Max Junker</i> .....	887
---	-----

THE DUTY TO SUPPORT MINOR CHILDREN DOES NOT EXTEND TO THE ESTATE OF A DECEASED PARENT, BUT ENDS AT THAT PARENT’S DEATH: <i>BENSON EX. REL. PATTERSON V. PATTERSON</i> <i>Gina Mercurio</i> .....	905
---	-----

SALES MADE TO OUT-OF-STATE PURCHASERS PICKED UP AT A PENNSYLVANIA FACILITY ARE NOT PENNSYLVANIA SALES FOR PURPOSES OF THE PENNSYLVANIA CORPORATE NET INCOME TAX: <i>COMMONWEALTH OF PENNSYLVANIA V. GILMOUR MANUFACTURING COMPANY</i> <i>Karen Oehling</i> .....	921
---	-----

THE VOTING RIGHTS ACT DOES NOT PREVENT PRECLEARANCE WHEN THE RETROGRESSIVE IMPACT OF A REDISTRICTING PLAN DOES NOT IMPAIR THE ABILITY OF MINORITY VOTERS TO ELECT CANDIDATES OF THEIR CHOOSING IN THEIR DISTRICT: <i>GEORGIA V. ASHCROFT</i> <i>Daniel L. Stants</i> .....	945
--	-----

VOLUME 42 INDEX .....	973
-----------------------	-----

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